

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PENDLETON DIVISION

MARC HOLCOMB,

Case No. 2:18-cv-02066-CL
ORDER

Petitioner,
vs.

TROY BOWSER, Superintendent, Two
Rivers Correctional Institution,

Respondent.

AIKEN, District Judge:

Magistrate Judge Mark Clarke has filed his Findings and Recommendation (“F&R”) (Doc. 37) recommending that the amended petition for writ of habeas corpus (Doc. 25) be denied. Magistrate Judge Clarke has also recommended that this case be dismissed and that a Certificate of Appealability should be DENIED on grounds that petitioner has not made a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c)(2). This case is now before me. *See* 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b).

When either party objects to any portion of a magistrate judge's F&R, the district court must make a *de novo* determination of that portion of the magistrate judge's report. *See* 28 U.S.C. § 636(b)(1); *McDonnell Douglas Corp. v. Commodore Business Machines, Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981), *cert denied*, 455 U.S. 920 (1982).

Petitioner has filed timely objections to the F&R (Doc. 39) and respondent has filed a timely response. Doc. 40. Having reviewed the objection, response, and the entire file of this case, the Court finds no error in Magistrate Judge Clarke's order.

Thus, the Court adopts Magistrate Judge Clarke's F&R (Doc. 37) in its entirety. The amended petition for writ of habeas corpus (Doc. 25) is dismissed. Further, the Court declines to issue a Certificate of Appealability on the grounds that petitioner has not made a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c)(2). Accordingly, this action is dismissed.

IT IS SO ORDERED.

Dated this 24th day of March, 2021.

/s/Ann Aiken
Ann Aiken
United States District Judge